

Department Recommendations for Adoption

(Edits below directed to the proposed rule language adopted during the August 13, 2020 Fish and Wildlife commission meeting)

12.11.501 LIST OF WATER BODIES Remains as proposed.

NEW RULE I MADISON RIVER FISHING OUTFITTER AND GUIDE TRIP CAP (1)

~~The number of commercial use trips are limited to 13,909 per year.~~

(1) Fishing outfitters and guides may only operate on the Madison River as long as they have a Madison River Special Recreation Permit and trips allotted them as provided by these rules.

(2) There shall be no more than 14,053 fishing outfitting and guided trips allotted in any year.

(3) NEW RULE I will be implemented January 1, 2022.

NEW RULE II REST/ROTATION OF MADISON RIVER OF ANGLING

COMMERCIAL USE (1) ~~Commercial use Fishing outfitters and guides are is prohibited from conducting business~~ from June 15 to September 30 as follows:

(a) from Lyons Bridge Fishing Access Site to Palisades Day Use Area on Sundays; and

(b) from Varney Bridge Fishing Access Site to Ennis Fishing Access Site on Saturdays.

(2) NEW RULE II will be implemented as a trial program January 1, 2023 unless adjusted by the work group as prescribed in NEW RULE XIV.

(3) The commission will review NEW RULE II in 2024 as prescribed by NEW RULE XIII.

NEW RULE III WALK/WADE SECTIONS OF MADISON RIVER

(1) On Fridays, Saturdays, and Sundays from June 15 to September 30 an angler may not fish from or gain access to fishing from a boat, vessel, or flotation device from the outlet of Quake Lake to Lyons Bridge Fishing Access Site. no watercraft or flotation device can be used to access fishing:

~~(a) from the outlet of Quake Lake to Lyons Bridge Fishing Access Site; and~~

~~(b) from Ennis Fishing Access Site to Ennis Reservoir.~~

(2) On Mondays, Tuesdays, Wednesdays, and Thursdays from June 15 to September 30 an angler may access fishing from but not fish from a boat, vessel, or flotation device from the outlet of Quake Lake to Lyons Bridge Fishing Access Site. watercraft or flotation device may be used to access fishing but no fishing can occur from watercraft or flotation devices:

~~(a) from the outlet of Quake Lake to Lyons Bridge Fishing Access Site; and~~

~~(b) from Ennis Fishing Access Site to Ennis Reservoir.~~

(3) No fishing from a boat or vessel from Ennis Fishing Access Site to Ennis Reservoir.

(4) NEW RULE III will be implemented as a trial program in January 1, 2023 unless adjusted by the work group as prescribed in NEW RULE XIV.

(5) The commission will review NEW RULE III in 2024 as prescribed by NEW RULE XIII.

NEW RULE IV LIMIT DEVELOPMENT ON MADISON RIVER (1) ~~New access-acquisitions below Greycliff Fishing Access Site will have limited development to maintain the primitive nature by limiting vessel or float tube access to carry-in only.~~

(1) Any department acquisition for a fishing access site below Greycliff Fishing Access Site made after January 1, 2021 will be designated as carry-in only without boat ramp development.

NEW RULE V MADISON RIVER WALK/WADE SECTIONS

DO NOT ADOPT because the preference would be to adopt NEW RULE III and allow the work group to adjust, if necessary.

NEW RULE VI MANAGEMENT OF LIMITED COMMERCIAL USERS

DO NOT ADOPT because work group will recommend limitations, if any, to the commission.

NEW RULE VII TRANSFERRED PERMITS

DO NOT ADOPT because the transfer of individual river use days by outfitters/guides for pay is currently not allowed by law unless a business is transferred in its entirety pursuant to 47-37-310(4), MCA. Transfer of individual river use days by outfitters or guides without pay could be allowed because a "property right would not attach to transferred river-use days."

NEW RULE VIII FLEX TRIPS

DO NOT ADOPT because allocation of trips and a process to permit new outfitter will be developed by the working group as described in NEW RULE XIV.

NEW RULE IX TRANSFER OF GUIDED TRIPS

DO NOT ADOPT because the transfer of individual river use days by outfitters/guides for pay is currently not allowed by law unless a business is transferred in its entirety pursuant to 47-37-310(4), MCA. Transfer of individual river use days by outfitters or guides without pay could be allowed because a "property right would not attach to transferred river-use days."

NEW RULE X MANDATORY GUIDED TRIP REDUCTIONS

DO NOT ADOPT because allocation of trips and a process to permit new outfitter will be developed by the working group as described in NEW RULE XIV.

NEW RULE XI PERMIT APPLICATION AND FEES

DO NOT ADOPT because BLM and FWP coordinates their fees and application process.

NEW RULE XII REPORTING AND USE FEES

DO NOT ADOPT because reporting and fees are required by the current process established by FWP and BLM.

NEW RULE XIII ~~PLAN EVALUATION~~ REVIEW OF RECREATION RULES FOR MADISON RIVER (1) The commission shall review:

(a) NEW RULE I in 2023;

(b) NEW RULE II and NEW RULE III IN 2024; and

(c) the rules governing recreational use on the Madison River every five years beginning in 2024.

~~(1) The Madison River Recreation Management Plan will be quantitatively evaluated by section or reach and across time immediately following the first year of implementation.~~

~~(2) Following the first year evaluation, similar quantitative evaluations will be conducted every three years.~~

~~(3) Annual reports will be generated by the department that contain quantitative use data by river section and time as well as financial data.~~

~~(4) The annual reports will evaluate:~~

~~(a) river use from Madison River Special Recreational Use Permit holders;~~

~~(b) satisfaction of Madison River Special Recreational Use Permit holders and generate use data annually; and~~

~~(c) the effectiveness of allowing fishing from a boat or vessel for four days per week within this reach.~~

~~(5) The no-cost, no-limit stamp will be evaluated pursuant to [NEW RULE XVI].~~

NEW RULE XIV MADISON RIVER WORKING GROUP

(1) The commission shall develop the membership of and appoint a Madison River Work Group. The work group will consist of three commercial outfitters with a current Madison River Special Recreational Use Permit, three non-commercial Madison River users, two Madison Valley business interest not connected to commercial outfitting, one member trained in natural resources management and not currently working for FWP, and one at-large member whose selected qualities are largely outside the above descriptions for other work group members.

(2) The members of the working group shall be appointed for three years.

(3) The work group will be staffed by department employees.

(4) The work group may develop recommendations to the commission for approval regarding:

(a) the allocation of commercial use trips to outfitters;

(b) a process to permit new outfitters on the Madison River;

(c) rule language to address all recreational use on the Madison River, including walk/wade sections and rest rotation proposals to replace those in NEW RULE II and III; and

(d) consequences of permit violations.

~~(1) The Madison River Commercial Use Working Group is under the authority of the Region 3 River Recreation Manager.~~

~~(2) The Commercial Use Working Group will be comprised of the Region 3 Recreation Manager, a member of the Fish and Wildlife Commission, and at least three Madison River outfitters holding a current valid Madison River Special Recreational Use Permit.~~

~~(3) The Commercial Use Working Group will establish an appeal process for conflicts and complaints.~~

~~(4) The Commercial Use Working Group may award guided trips to eligible outfitters from the Madison River Special Recreational Use Permit trip distribution pool via lottery.~~

~~(5) The Commercial Use Working Group will review total use and:~~

~~(a) adjust guided trip allocations as needed if Madison River Special Recreational Use Permit holder use declines;~~

~~(b) review guided trip additions to the Madison River Special Recreational Use Permit trip distribution pool; and~~

~~(c) review the annual number of flex trips eligible for outfitter use. If the total use of guided trips and flex trips exceeds the combined use levels of 2019 and 2020, the annual~~

~~number of flex trips available to Madison River Special Recreational Use Permit holders may be reduced.~~

~~(6) The Commercial Use Working Group may assign a fixed number of new permits to be issued. New permits will be awarded to qualified licensed Montana outfitters that have applied for a new permit via a lottery.~~

NEW RULE XV MADISON RIVER SPECIAL RECREATIONAL USE PERMIT TRIP DISTRIBUTION POOL DO NOT ADOPT because allocation of trips and a process to permit new outfitters will be developed by the working group as described in NEW RULE XIV.

NEW RULE XVI MADISON RIVER USE STAMP
DO NOT ADOPT because noncommercial recreational use will be addressed by the NEW RULE language below.

NEW RULE MADISON RIVER REPORTING REQUIREMENTS All persons recreating on the Madison River must provide the required information in the manner prescribed by the department. Each year, information gathered will be reported to the work group and commission.